

Remarks

Claims 3, 9-10, and 20 are pending. Claim 3 has been amended. Claims 9 and 10 have been found allowable. Claim 19 has been canceled. Claim 20 has been added. Support for the amendment to claim 3 can be found throughout the specification, and specifically on page 5, lines 18-21. Support for claim 20 can be found throughout the specification, and specifically on page 6, line 5.

Applicants would like to thank Examiners Leffers and Caputa for the telephonic interviews of October 19, 2004 and October 21, 2004.

I. *Claim Rejections- 35 USC § 102*

Claim 3 is rejected under 35 USC 102(b) for allegedly being anticipated by Wojda and Miller (Molecular Biology of the Cell, Nov. 1997, Vol. 8, Suppl. P86A). The Examiner states that fluorescein does constitute a “biologically active molecule,” even though the specification states that a biologically active molecule is “a molecule that, when introduced into a cell, can affect processes or reactions occurring within the cell.” (p. 4, line 20 of the specification.)

Applicants respectfully traverse. However, in an effort to expedite prosecution, claim 3 has been amended to replace “biologically active molecules” with specific examples of biologically active molecules including proteins, enzymes, vitamins, vaccines, transcription factors, hormones, carbohydrates, lipids, and nucleic acids. Applicants would like to thank Examiner Leffers and Examiner Caputa for this suggestion in the interview of October 21, 2004. It is believed that this amendment is sufficient to overcome the rejection, as the cited art (Wojda et al.) teaches fluorescein, which is clearly not a protein, enzyme, vitamin, vaccine, transcription factor,

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hormone, carbohydrate, lipid, or nucleic acid. Applicants therefore respectfully request its allowance.

Regarding newly added claim 20, Applicants would like to point out that this claim was added in an attempt to overcome the art of Wojda *et al.*, which recites fluorescein. Applicants' previous attempt to overcome this rejection by the addition of claim 19, which excludes fluorescein from claim 3, was met with a new matter rejection. In the interview with Examiner Leffers and Examiner Caputa on October 21, 2004, Applicants argued that fluorescein is specifically disclosed throughout the application, and therefore should not be given a new matter rejection. The Examiners countered by saying that fluorescein is not disclosed as being a biologically active molecule, and is therefore considered new matter, as claim 19 was limited to biologically active molecules. Applicants then pointed out that the Examiner had included fluorescein in the group of biologically active molecules when he made the art rejection. The Examiners then stated that the standards for art and new matter were different. In an effort to overcome the new matter rejection, claim 20 recites that the first molecule can be a biologically active molecule or fluorescein. Since the fluorescein is being listed separately from the biologically active molecule, the Examiner cannot reject it as new matter, since fluorescein is clearly supported in the specification, such as on page 6, line 5. Fluorescein is then excluded from the list of first molecules, which then overcomes the art of Wojda *et al.* Applicants therefore believe that this new claim is allowable.

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Pursuant to the above remarks, reconsideration and allowance of the pending application is believed to be warranted. The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of the application to issue.

Credit Card Payment Form PTO-2038 authorizing payment in the amount of \$1,810.00 (RCE fee in the amount of \$790.00 and a three-month extension of time fee in the amount of \$1,020.00) is enclosed. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

Gwendolyn D. Spratt
Gwendolyn D. Spratt
Registration No. 36,016

NEEDLE & ROSENBERG, P.C.
Customer Number 36339
(404) 688-0770
(404) 688-9880 (fax)

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I hereby certify that this correspondence, including any items indicated as attached or included, is being deposited with the United States Postal Service as Express Mail No. EL 980236197 US in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Scott Darnell

Date

2-23-05